

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel. W.A. DREW)
EDMONDSON, in his capacity as ATTORNEY)
GENERAL OF THE STATE OF OKLAHOMA)
and OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TROBERT, in his)
capacity as the TRUSTEE FOR NATURAL)
RESOURCES FOR THE STATE OF)
OKLAHOMA,)

Plaintiffs,)

vs.)

TYSON FOODS, INC., INC., TYSON)
POULTRY, INC., TYSON CHICKEN, INC.,)
COBB- VANTRESS, INC., AVIAGEN, INC.,)
CAL-MAINE FOODS, INC., CAL-MAINE)
FARMS, INC., CARGILL, INC., CARGILL)
TURKEY PRODUCTION, LLC, GEORGE'S,)
INC., GEORGE'S FARMS, INC., PETERSON)
FARMS, INC., SIMMONS FOODS, INC., and)
WILLOW BROOK FOODS, INC.,)

Defendants.)

Case No. 05-CV-329-GKF-SAJ

ORDER

Comes on for decision the State of Oklahoma's Motion for Reconsideration of the Court's February 26, 2007 Opinion and Order [Docket No. 1074]. After considering the briefs of the parties, the Court grants the motion in part and denies in part as follows:

BATES STAMPING REQUIREMENT

In the original Order of February 26th the Court ordered, "Where possible, Plaintiff should reference the range of Bates numbers and the box number responsive to the request rather than a reference solely to the box number." Plaintiff has represented to the Court that responsive documents have not previously been Bates stamped and it would be

unduly burdensome to require this because of the volume of documents produced.¹

The Court finds nothing in Fed. R. Civ. P. 33(d) and the comments thereunder that require documents to be Bates stamped. Therefore, the Court hereby modifies the February 26th Order to remove any requirement that documents be Bates stamped.

Fed. R. Civ. P. 33(d), the comments and the relevant case law as cited in the original opinion require that the responding party must identify the specific pages within each box that respond to a specific interrogatory. If the Plaintiff does not Bates stamp responsive documents and is unable to reference the documents by page number, Plaintiff is ordered to identify and isolate responsive documents within each box by the insertion of clips, dividers, durable index tabs or other similar method, which allows the interrogatory to which the documents respond to be clearly identified. The method chosen should be as permanent as possible without causing damage to the documents.

TYSON FOODS INTERROGATORIES 3 AND 4

As set forth in the motion, Plaintiff asks the Court “to grant it protection relieving it of the obligation to further responding to these two interrogatories, or limiting the scope of its response to a reasonable extent consistent with the actual needs of the case.” Said request is granted as hereinafter set forth. Fed. R. Civ. P. 26(b)(1) permits discovery that is relevant to the claim or defense of any party. Relevant information need not be admissible at the trial if it appears reasonably calculated to lead to the discovery of admissible evidence.

The Plaintiff’s response need only identify real property in which it has had a leasehold interest or owned within the past three years within the IRW *AND* on which

¹“Bates numbered” and “Bates stamped” are interchangeable terms referencing the process by which documents may be designated by a consecutive numbering device.

chemicals, fertilizers or waste materials have been applied to the ground. [emphasis added]. A generic description of the property and the materials applied to the ground is sufficient without further documentation at this time.

CONCLUSION

The State of Oklahoma's Motion for Reconsideration of the Court's February 26, 2007 Opinion and Order [Docket No. 1074] is granted in part and denied in part as stated herein. All terms and conditions of the original Order not inconsistent with this Order continue in full force and effect. If any party believes a particular discovery request is overly broad and that issue has not been ruled upon by the Court, that party is directed to make a good faith partial response within the allotted time period.

IT IS SO ORDERED THIS 4TH DAY OF APRIL, 2007.


Sam A. Joyner
United States Magistrate Judge